

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

CHARLES W MAY,

Plaintiff,

VS.

LARRY BUSBY, *et al*,

Defendants.

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CIVIL ACTION NO. C-11-69

**ORDER ADOPTING MEMORANDUM AND  
RECOMMENDATION TO DISMISS  
CERTAIN CLAIMS AND TO RETAIN CASE**

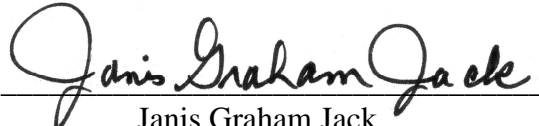
On March 28, 2011, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that plaintiff's § 1983 claims against Live Oak County, Deputy Gonzalez, Deputy John Doe, and Deputy Jane Doe be retained, and service ordered on these defendants; and further, that plaintiff's claims against Sheriff Larry Busby, the Live Oak County District Attorney, Judge Elizabeth Ellis, and Judge Jim Huff, be dismissed for failure to state a claim and as frivolous. See 28 U.S.C. § 1915(e)(2)(B). Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court, with the exception that plaintiff's excessive force claim shall be framed under the Fourth Amendment rather than the Eighth Amendment. Accordingly, it is

ORDERED That plaintiff's § 1983 claims against Live Oak County, Deputy Gonzalez, Deputy John Doe, and Deputy Jane Doe are retained on the Court's docket. It is further ORDERED that plaintiff's claims against Sheriff Larry Busby, the Live Oak County District

Attorney, Judge Elizabeth Ellis, and Judge Jim Huff, are dismissed for failure to state a claim and as frivolous. See 28 U.S.C. § 1915(e)(2)(B).

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 19th day of April, 2011.

  
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Janis Graham Jack  
United States District Judge